IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue of U.S. 6,365,574 B2 Confirmation No.: 9531

In Re Reissue Application of:

Applicant: Claude SINGER et al.

Serial No. 10/816,376

Filed: April 2, 2004

Group Art Unit: 1623

Examiner: E. Peselev

For: ETHANOLATE OF AZITHROMYCIN, PROCESS FOR MANUFACTURE, AND PHARMACEUTICAL COMPOSITIONS THEREOF

COMMENTS REGARDING INTERVIEW SUMMARY MAILED DECEMBER 19, 2005

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is responsive to the Interview Summary mailed December 19, 2005. No fee is believed to be due; however, the Commissioner is hereby authorized to charge any payment due in connection with this paper to Deposit Account **11-0600**.

REMARKS

This communication is responsive to an Interview Summary that the PTO mailed on December 19, 2005 ("the Interview Summary"), stating the PTO's view of the substance of an interview conducted on October 21, 2005. During that interview, Applicant's representatives Neil M. McCarthy and W. David Wallace met with Technology Center 1600 Director George Elliott, Ph.D.; S.P.E. and Interference Specialist Michael Woodward; and, Examiner Elli Peselev to discuss Applicants' position that an interference should be declared between the subject reissue application and certain applications assigned to Pfizer, Inc. Such an interference was recently declared.

Applicants would like to clarify the record with regard to certain aspects of the Interview Summary. In particular, the Interview Summary states (1) "Mr. McCarthy...noted that the only other form [of azithromycin] likely to be present was the dihydrate." and (2) "...Mr. McCarthy noted that he thought that the dihydrate had an identical diffraction pattern [to azithromycin monohydrate hemiethanolate disclosed in Applicants' reissue application]." Applicants disagree that these passages reflect Mr. McCarthy's statements in the interview.

The Interview Summary correctly reflects that a discussion occurred regarding other forms of azithromycin that could possibly be present in azithromycin monohydrate hemiethanolate made in accordance with the disclosure (including the working example therein) of Applicants' reissue application. Three forms of azithromycin were discussed: the azithromycin monohydrate hemiethanolate of the reissue application; a prior art hygroscopic monohydrate, which is disclosed in U.S. Patent No. 4,474,768 to Bright et al.; and, azithromycin dihydrate, as disclosed in U.S. Patent No. 6,268,489.

The Interview Summary has apparently confused, in part, the particular forms which were under discussion. As the Interview Summary correctly indicates, there was a discussion of what other forms might be present in Applicants' azithromycin monohydrate hemiethanolate. However, Mr. McCarthy did not state that the only other form likely to be present is the dihydrate. Rather, he said that the only other form that might be present is the "hygroscopic monohydrate."

As the Interview Summary correctly states, there was a discussion of the diffraction patterns of Applicants' azithromycin monohydrate ethanolate and differences, if any, to the prior art. However, Mr. McCarthy did not state that he thought that the azithromycin monohydrate hemiethanolate disclosed in Applicant's reissue application has an identical diffraction pattern to the prior art *dihydrate*. Rather, he stated that to his recollection Applicants' azithromycin monohydrate hemiethanolate has the same diffraction pattern as the prior art *hygroscopic monohydrate*.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

Date: January 13, 2006

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